



DATE: September 19, 2016

TO: Steve Drew, Water Resources Director

FROM: Jennifer Schneier, Assistant City Attorney

SUBJECT: Release of Public Enterprise Billing Information

This legal opinion is in response to a public records request by a journalist, Ms. Catherine Clabby, asking the Water Resources Department release information regarding its testing of the contaminant 1,4 dioxane and billing information concerning the customer or customers who may be the possible source of the 1,4 dioxane. The City is in the process of releasing the requested documentation but will redact any documentation that is not a public record such as information that reveals customer billing information. Customer billing information is not a public record and there is no governing City policy that would allow such a release.

Public records are governed by General Statute Chapter 132. The statute provides that public records shall mean "all documents papers, letters, maps, books, photographs, films, sound recordings . . . or other documentary material, regardless of physical form or characteristics." The Water Resources department has provided Ms. Clabby all records regarding the testing of 1,4 dioxane. The City is in compliance with the public records law in this regard.

North Carolina General Statute 132-1.1(c) excludes from public access Public Enterprise Billing Information stating such information "is not a public record." The statute further provides that billing information means "any record or information, in whatever form, compiled or maintained with respect to individual customers by any owner or operator of a public enterprise." The statute allows for three instances where such records may be released, but none of those exclusions apply to Ms. Clabby's request.

Legal authorities agree that if a public enterprise discloses billing information in circumstances that are not among the exclusions listed in the statute, it should do so pursuant to a decision made by City Council, and it should apply any directive consistently. There is no City Council directive stating that customer billing information is to be released to a journalist conducting research into water quality issues, and absent such a directive, the Water Resources Department should continue to hew closely to the jurisprudence surrounding public records law and should decline to release customer billing information in this and other similar instances.

I cannot speak to the decisions of other enterprises that have released customer information to Ms. Clabby. For its part, the City of Greensboro remains in full compliance with the public records law and also with its policies and practices with regard to the release of such



information. To expose the customer would serve no purpose, especially in light of the fact that the Water Resources Department has oversight of this matter and is capable of contacting any customer to discuss the situation. There is no legal reason or public policy reason for the City to alter its long-standing position on the release of customer billing information to accommodate this journalist's request.